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## REMARKS

### *Claim Status*

Currently, claims 1-7 and 9-21 are pending. Claim 8 has been cancelled.

### *Priority*

In paragraph 1 of the Office Action, the Examiner indicated that there was no proof of copendency between the current application and the prior application. In particular, the Examiner indicated that a certification from the Applicant that the International Application was not withdrawn at the time of filing is missing. Applicant files herewith a certification indicating that the International Application was not withdrawn at the time of filing. Appropriate consideration is respectfully requested.

### *Drawings*

In paragraph 3 of the Office Action, the Examiner objected to the drawings for not showing the claimed subject matter of claims 7, 8 and 11. Regarding claim 7, the Examiner noted that the recesses within a housing of said throttle connection piece are not shown. By way of the above amendment, the recesses within a housing limitation has been deleted from claim 7. Regarding claim 8, by way of the above amendment, the claim has been cancelled. Regarding claim 11, the Examiner noted that the encapsulation feature of the claim is not shown. By way of the above amendment, this feature has been cancelled. Accordingly reconsideration and withdrawal of the objection is respectfully requested.

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### *Claim Objections*

In paragraph 4, the Examiner noted a misnumbering of the claims and effected a logical correction. Applicant notes the logical correction with appreciation.

In paragraph 5, the Examiner objected to the term "an" on line 2 in claim 9. By way of the above amendment, the term "an" was changed to "and".

Appropriate consideration of the aforementioned amendments is respectfully requested.

### *Claim Rejections – 35 USC §112*

In paragraphs 6 and 7, the Examiner rejected claim 16 for terms lacking antecedent basis. By way of the above amendment, the dependency of claim 16 has been changed from claim 1 to claim 3 given the terms antecedent basis. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

### *Claim Rejections – 35 USC §102*

In paragraphs 8 and 9 of the Office Action, the Examiner rejected claims 1-3, 6, 7, 9, 10, 13, and 15 under 35 USC §102(b) as being anticipated by MacDonald (US Patent 4,057,217). Applicant traverses.

The present invention is directed to a throttle arrangement for selectively closing a through flow comprising a throttle valve having an opening for receiving a throttle valve shaft and one or more recesses extending into the opening. Within the recess the throttle valve is welded to the valve shaft with at least one welding. The aforementioned is set out in the currently amended independent claim 1. This arrangement has advantages over prior art systems including: the need for only a small number of simple components, ease of mounting, and a small leakage rate when the throttle valve is closed. Because the shaft is exposed in the recess, it may be easily welded to the throttle valve. Likewise, the shaft may be easily set within the opening via its' exposure in the recess. MacDonald does not disclose these features.

MacDonald is directed to a throttle valve arrangement which makes use of transverse pins or keys 41, 43 and 45 arranged in keyways 35, 37 and 39 to facilitate the different thermal expansions of the disk 21 and stem or shaft (col. 4, lines 53-57). The keyways are partially formed in the shaft and partially in the disk (col. 4, lines 48-53). The keyways extend completely through the disk 21 flattening a portion of

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shaft 19 in the process (figures 3 and 4). The keys are inserted into the keyways and may be welded to the disk 21 by weld points or joints 49 (col. 5, lines 1-2; figures 3 and 4). The direction and shape of the keyways are such so as to provide a means for resisting the torque of the disk 21 (col. 5, lines 3-12). Additionally, either the shaft or disk may be further opened to provide a ramp for relative movement between disk and shaft thereby absorbing different thermal expansions of the two (col. 5, lines 62-col. 6, line 9; col. 8, lines 13-15, figures 2 and 5-9).

Regarding claim 1, the Examiner equates the instant recesses to MacDonald's keyways (35, 37) and instant welding to MacDonald's weld points (49). However, as set out above, the instant recesses extend through the throttle valve to the opening for the shaft. In contrast, MacDonald's keyways run completely through the throttle valve and do not expose the shaft. Within the instant recess, the throttle valve is welded to the shaft via at least one welding. In contrast, MacDonald's welding connect the keys to the disk (see figure 3, welds 49 connecting key 35 to disk 21). MacDonald does not weld a throttle valve to shaft nor would he be able to (via the keyway) because it is occupied by the key. Accordingly, MacDonald does not disclose, expressly or by implication, every limitation of claim 1.

Regarding claim 2, the Examiner did not cite specific features of MacDonald disclosing the claimed limitations. Additionally claim 2 depends from claim 1, therefore the respective rationale above is repeated herein. Accordingly, at least for the above reasons, MacDonald does not disclose the limitations of claim 2.

Regarding claim 3, the Examiner notes that the instant connecting elements are anticipated by MacDonald's keys (41, 43). As claimed, the connecting elements project into the recess from the throttle valve; and the connecting elements comprise a material which is weldable to the shaft. MacDonald does not disclose the instant recess. MacDonald's keys are not connected to his disk but are held in place by weld points. There is no disclosure within MacDonald expressly or implicitly stating that the key material is weldable to the shaft. Such would not be present considering the key is held in place by welding between it and the disk rather than between it and the shaft. Additionally, claim 3 depends from claim 1, therefore the respective rationale above is repeated herein. Accordingly, at least for the above reasons, MacDonald does not disclose the limitations of claim 3.

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Regarding claim 6, the Examiner notes that keys 41, 43 anticipate the two connecting elements of this claim. However, according to claim 6, the two connecting elements are connected to the throttle valve and project in opposite directions to one another, tangential to the throttle valve shaft and into the recess. Per the above, MacDonald does not disclose a recess, nor do his keys anticipate the connecting elements. Further, MacDonald's keyways may only accommodate one as oppose to two keys. Lastly, claim 6 depends from claims 1 and 3, therefore the respective rationale above is repeated herein. Accordingly, MacDonald does not disclose all of the limitations of claim 6.

Regarding claim 7, it depends from claim 6, therefore the respective rationale above is repeated herein and the respective rationale and distinctions also apply here. Accordingly, MacDonald does not disclose all of the limitations of claim 7.

Regarding claim 9, it is directed to the connecting element extending along the shaft valve a substantial length of the recess. As set out above, the recess and connecting elements are missing in MacDonald. Additionally, claim 9 depends from claims 1 and 3, therefore the respective rationale above is repeated herein. Therefore, MacDonald does not disclose all of the limitations of claim 9.

Regarding claim 10, it is directed to a plurality of connecting elements adjacently displaced within the recess. As set out above, it is not possible for MacDonald to have more than one key in a keyway. Additionally, the recess and connecting elements are missing in MacDonald. As claim 10 depends from claims 1 and 3, the respective rationale above is repeated herein. Accordingly, MacDonald does not disclose all of the limitations of claim 10.

Regarding claims 13 and 15, they depend from claims 9 and 1, therefore the respective rationale above is repeated herein. Accordingly, MacDonald does not disclose all of the limitations of claims 13 and 15.

Therefore, for at least the reasons set out above, Applicant submits that MacDonald does not expressly nor implicitly disclose all the limitations of the rejected claims, is not available under 35 USC §102(b), and reconsideration and withdrawal of this rejection is respectfully requested.

In paragraph 10, the Examiner rejected claims 1-4 and 9 under 35 USC §102(b) as being anticipated by Obermaier (US Patent 3,675,681). Applicant traverses.

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Obermaier is directed to a butterfly valve which operates via a vacuum motor 12 to actuate between an open, partially open, and closed position (col. 1, lines 59-71). A bleed orifice 42 facilitates the partially open position (col. 2, lines 29-36). The valve comprises a metallic insert 32 and a resilient sealing member 33, such as rubber, molded about it. A central portion 34 of insert 32 is welded to a rod 35 extending diametrically across the valve seat chamber 18 of housing 17. The central portion 34 is shaped to conform to rod 35 thereby accommodating rod 35 along a rounded back portion with a front portion (in the direction of bore 28) being open (col. 2, lines 17-21; Figure 1).

Regarding claim 1, the Examiner indicated that "(near 34)" in Obermaier anticipates the instant recess. The instant recess extends through the throttle valve into the opening where the shaft is accommodated. In contrast, the Obermaier valve includes no such opening. While the sealing member does include a bleeding orifice 42, such does not extend towards an opening for a shaft. Lacking the recess, it is not possible for Obermaier to disclose the instant "at least one welding" connecting throttle valve and shaft (within the recess). Accordingly, Obermaier does not disclose all of the limitations of claim 1.

Regarding claim 2, the Examiner did not cite specific features of Obermaier disclosing the claimed limitations. Additionally claim 2 depends from claim 1, therefore the respective rationale above is repeated herein. Accordingly, at least for the above reasons, Obermaier does not disclose the limitations of claim 2.

Regarding claim 3, the Examiner noted that Obermaier's central portion 34 anticipates the instant connecting element. However, the instant connecting element projects within the instant recess so that it can be welded to the shaft. As set out above, Obermaier does not disclose the instant recess. Accordingly, it is not possible for central portion 34 to be the instant connecting means. Therefore, Obermaier does not disclose all the limitations of claim 3.

Regarding claim 4, in addition to not disclosing the recess, Obermaier's central portion 34 lacks projections as required by this claim. Accordingly, Obermaier does not disclose all of the limitations of claim 4.

Regarding claim 9, as set out above, Obermaier does not disclose the instant connecting element nor recess. Accordingly, Obermaier does not disclose all of the limitations of claim 9.

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Therefore, for at least the reasons set out above, Applicant submits that Obermaier does not expressly nor implicitly disclose all the limitations of the rejected claims, is not available under 35 USC §102(b), and reconsideration and withdrawal of this rejection is respectfully requested.

***Claim Rejections - §103***

In paragraphs 11 and 12, the Examiner rejected claims 16-21 under 35 USC §102(b) or 35 USC §103 as being obvious over MacDonald. Applicant traverses. Claims 16-21 depend from the currently amended claim 1. For the reasons set out above, MacDonald does not disclose all of the elements of claim 1 neither expressly nor by way of obvious variation. Accordingly, at least for the reasons set out above, MacDonald does not disclose the additional limitations of dependent claims 16-21 and reconsideration and withdrawal of this rejection is respectfully requested.

In paragraph 13, the Examiner rejected claims 11, 12 and 16-21 under 35 USC §102(b) or 35 USC §103 as being obvious over Obermaier. Applicant traverses. Claims 11, 12 and 16-21 depend from the currently amended claim 1. For the reasons set out above, Obermaier does not disclose all of the elements of claim 1 neither expressly nor by way of obvious variation. Accordingly, at least for the reasons set out above, Obermaier does not disclose the additional limitations of dependent claims 11, 12 and 16-21 and reconsideration and withdrawal of this rejection is respectfully requested.

In paragraph 14, the Examiner rejected claims 4, 5, and 8 under 35 USC §103 as being unpatentable over MacDonald. Applicant traverses. Claim 8 has been cancelled. Claims 4 and 5 depend from the currently amended claim 1. For the reasons set out above, MacDonald does not disclose all of the elements of claim 1 neither expressly nor by way of obvious variation. Accordingly, at least for the reasons set out above, MacDonald does not disclose the additional limitations of dependent claims 4 and 5 and reconsideration and withdrawal of this rejection is respectfully requested.

In paragraph 15, the Examiner rejected claims 13-15 under 35 USC §103 as being unpatentable over Obermaier. Applicant traverses. Claims 13-15 depend from the currently amended claim 1. For the reasons set out above, Obermaier does not disclose all of the elements of claim 1 neither expressly nor by way of obvious

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variation. Accordingly, at least for the reasons set out above, Obermaier does not disclose the additional limitations of dependent claims 13-15 and reconsideration and withdrawal of this rejection is respectfully requested.

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## CONCLUSION


The present response is intended to correspond with the Revised Amendment Format. Applicant understands that with the Revised Amendment Format, the provisions of 37 CFR §1.121 are waived. Should any part of the present response not be in full compliance with the requirements of the Revised Amendment Format, the Examiner is asked to contact the undersigned for immediate correction.

No new matter has been added by way of the aforementioned amendments.

The Examiner has cited several references in the rejection's *Conclusion* as pertinent prior art. Applicant has reviewed these references and at least for the reasons set out above believe the present application, as currently claimed, is allowable over the references.

In the event that the transmittal form is separated from this document and the Patent Office determines that an extension of time and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees in connection with the filing of this document to Deposit Account No.: 502464 referencing client reference: 2001P80113WOUS. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hans-Ulrich VOGLER

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Serial No.: 10/778,022

Examiner: Eric Keasel

Filing Date: 02/17/2004

Atty. Dock.: 2001P80113WOUS

For: Throttle Valve Arrangement

Confirmation No.: 6174

## CERTIFICATION OF STATUS OF INTERNATIONAL APPLICATION

Assistant Commissioner for Patents  
 United States Patent & Trademark Office  
 2011 South Clark Place  
 Customer Window, Mail Stop RESPONSES NO FEE  
 Crystal Plaza Two, Lobby, Room 1B03  
 Arlington, VA 22202, USA

Sir:

Die am 19. Aug. 2002 eingereichte internationale Anmeldung mit dem Aktenzeichen PCT/DE02/03041, die die Priorität unter 35 USC § 120 beansprucht, wurde nicht zurückgezogen und war zum Zeitpunkt der Einreichung der vorliegenden Patentanmeldung beim USPTO anhängig.

The status of International Application number PCT/DE02/03041, filed 08/19/2002, to which the benefit of priority under 35 USC §120 was claimed, was not withdrawn but pending at the time of filing of the present application with the United States Patent Office.

Ich erkläre hiermit, daß alle in der vorliegenden Erklärung von mir gemachten Angaben nach bestem Wissen und Gewissen der Wahrheit entsprechen, und ferner daß ich diese eidesstattliche Erklärung in Kenntnis dessen ablege, daß wissentlich und vorsätzlich falsche Angaben oder dergleichen gemäß § 1001, Title 18 des US-Code strafbar sind und mit Geldstrafe und/oder Gefängnis bestraft werden können und daß derartige wissentlich und vorsätzlich falsche Angaben die Rechtswirksamkeit der vorliegenden Patentanmeldung oder eines aufgrund deren erteilten Patentes gefährden können.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

05.10.2004  
 DATE

05.10.2004  
 DATE

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